

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

THOMAS E. PEREZ, Secretary of Labor,)	
United States Department of Labor,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	12-CV-588-JED-PJC
EL TEQUILA, LLC, and)	
CARLOS AGUIRRE, Individually,)	
)	
Defendants.)	
)	

PLAINTIFF’S RESPONSE TO DEFENDANTS’ MOTION TO FILE RESPONSES OUT OF TIME

Defendants El Tequila, LLC and Carlos Aguirre (collectively, “Defendants”) filed a Motion for Extension of Time to File Responses Out of Time (DOC #205).¹ Plaintiff Thomas E. Perez, Secretary of Labor, United States Department of Labor (“Plaintiff”) opposes that Motion for the reasons stated herein.

Plaintiff incorporates the arguments and law cited in Plaintiff’s previous Response (DOC #204) to Defendants’ previous Motion (DOC #203) that dealt with these exact same issues.²

¹ On April 10, 2015, Defendants filed a Motion for Extension of Time to Respond to All Motions Out of Time (DOC #203). Defendants’ Motion for Extension of Time (DOC #203) was filed out of time and the responses Defendants sought to file were late with regard to every single one of Plaintiff’s Motions to which Defendants desired to respond. Plaintiff filed a Response (DOC #204) on April 13, 2015. Defendants’ April 10, 2015 Motion (DOC #203) and Plaintiff’s April 13, 2015 Response (DOC #204) concern precisely that same issues contained in Defendants’ latest (April 21, 2015) Motion (DOC #205). Moreover, Defendants have now filed two Motions (DOCS #203 and #205) seeking to file a response out of time to one of Plaintiff’s Motion in Limine (DOC #177) that Defendants apparently do not oppose because Defendants filed their own Motion in Limine (DOC #197) on the exact same topic, i.e., immigration status (in-part).

² When Plaintiff’s Counsel conferred with Defendants’ Counsel on April 21, 2015, Plaintiff’s Counsel strongly suggested to Defendants’ Counsel that this latest Motion (DOC #205) was duplicative of the Motion (DOC #203) previously filed by Defendants and unnecessary given the issues were already addressed in Defendants’ previous Motion (DOC #203) and Plaintiff’s

Both Motions (DOCS #203 and #205) should be denied because Defendants have yet to articulate or present the Court with sufficient evidence as to why deadlines established in the Local Civil Rules should not apply to Defendants.³ Accordingly, Defendants Motion to file Responses Out of Time (DOC #205) must be denied for the reasons previously outlined in Plaintiff's previous Response (DOC #204).⁴

Response (DOC #204). Defendants' Counsel refused to heed Plaintiff's Counsel's advice. Instead, Defendants' Counsel chose to file this duplicative Motion (DOC #205). Additionally, this Motion (DOC #205) is not the first time Defendants have filed duplicative motions on the same issues. See Defendants' November 26, 2014 Motion to Strike Plaintiff's Expert Witnesses (DOC #147), Court's February 13, 2015 Order Denying Defendants' Motion to Strike (DOC #174), and Defendants' March 20, 2015 Motion in Limine to Exclude Plaintiff's Same Expert Witnesses (DOC #197) (previously denied).

³ Moreover, Defendants' argument that it misread the Court's Second Amended Scheduling Order (DOC #84) and the Court's December 31, 2014 (DOC #159) makes no sense. See Defendants' Motion (DOC #205) at p.1 ¶2. Those Orders (DOCS #84 and 159) do not concern "due dates" as to responses. See Orders (DOCS #84 and 159). Rather, those Orders concern deadlines for filing dispositive motions and motions in limine, i.e., deadlines that miraculously Defendants were able to meet. Thus, Defendants' justification for missing deadlines established by the Local Civil Rule makes little to no sense.

⁴ In light of the numerous other pending Court deadlines, Plaintiff respectfully requests that the Court deny Defendants' Motions (DOCS #203 and #205) expeditiously so that the parties may focus on those Court deadlines that have yet to come-to-pass and/or expire.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of April, 2015, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrant:

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